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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

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11 BOARD OF TRUSTEES OF THE
CONSTRUCTION INDUSTRY AND
LABORERS HEALTH AND WELFARE
TRUST; THE BOARD OF TRUSTEES OF
THE CONSTRUCTION INDUSTRY AND
LABORERS JOINT PENSION TRUST; THE
BOARD OF TRUSTEES OF THE
CONSTRUCTION INDUSTRY AND
LABORERS VACATION TRUST; and THE
BOARD OF TRUSTEES OF THE
SOUTHERN NEVADA LABORERS
LOCAL 872 TRAINING TRUST,
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Plaintiffs,

18 v.

19 SANTOS ENTERPRISE, LLC, a Nevada
20 limited liability company,

21 Defendant.

CASE No.: 2:23-cv-00832-JCM-EJY

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**ORDER GRANTING MOTION
FOR ALTERNATIVE SERVICE
OF PROCESS AND MOTION TO
EXTEND TIME TO SERVE
PROCESS**

Presently before the Court is Plaintiffs' Motion for Alternative Service of Process and Motion to Extend Time to Serve Process (the "Motion"). Good cause appearing, the Court finds as follows:

1. Plaintiffs have diligently attempted to serve Santos Enterprise, LLC ("Santos Enterprise") to no avail. The Trust Funds have attempted to serve Santos Enterprise at three different known addresses, multiple times. Santos Enterprise appears to be actively evading service, making personal service impracticable.

1 2. Given the impracticability of personally serving Santos Enterprise, alternative
2 service is proper. Federal Rule of Civil Procedure 4(e)(1) authorizes service of process
3 as “prescribed in a state statute or rule.” *Omni Capital Int’l, Ltd. v. Ruldolf Wolff & Co.,*
4 *Ltd.*, 484 U.S. 97, 105 (1987). Nevada Rule of Civil Procedure 4.4 allows for service by
5 alternative methods if “the service methods provided in Rules 4.2, 4.3, and 4.4(a) are
6 impracticable.” Nev. R. Civ. P. 4.4(b). Once it is shown that other service methods are
7 impracticable, the Court can allow service by another means if the movant: (1) “provide[s]
8 evidence demonstrating that the movant exercised due diligence to locate and serve the
9 defendant”; (2) “provide[s] evidence of the defendant’s known or last-known contact
10 information, ‘including the defendant’s address, phone numbers, email addresses, social
11 media accounts, or any other information used to communicate with the defendant’”; and
12 (3) “state[s] why the proposed service method comports with due process.” *Huang v.*
13 *Carney*, No. 2:19-cv-00845-GMN-BNW, 2020 WL 8881742, at *3 (D. Nev. Jan. 9, 2020). In
14 this case, Plaintiffs have shown they diligently attempted to locate and serve Santos Enterprise.
15 Plaintiffs have also provided Santos Enterprise’s known contact information. Plaintiffs
16 propose serving Santos Enterprise via email on the owner of the business at his email
17 address, which he has frequently used to communicate with counsel for Plaintiffs.

18 3. The Nevada Rule of Civil Procedure 4.4 allows for alternative service via
19 “service by email.” *Eko Brands, LLC. v. Houseware Sols., LLC*, No. 2:20-CV-2076-RCJ-
20 BNW, 2021 WL 4149016, at *2 (D. Nev. Aug. 20, 2021) (citing *Huang v. Carney*, 2020 WL
21 8881742, at *3 (D. Nev. Jan. 9, 2020)); *see also MOM Enterprises, Inc. v. Roney Innovations,*
22 *LLC*, No. 20-CV-04850-TSH, 2020 WL 8614207, at *3 (N.D. Cal. Sept. 17, 2020) (collecting
23 cases). Alternative service via email is proper when it is “reasonably calculated to apprise [the
24 defendant] of the pendency of the action and afford it an

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1 opportunity to respond.” *Rio Properties, Inc. v. Rio Int’l Interlink*, 284 F.3d 1007, 1017 (9th Cir.
 2 2002). Where counsel has communicated with a party via an email address, courts have found
 3 that service at such an email address comports with due process. *See, e.g., Neumont Univ., LLC v.*
 4 *Nickles*, 304 F.R.D. 594, 600 (D. Nev. 2015); *Williams-Sonoma Inc. v. Friendfinder Inc.*, No.
 5 C06-06572 JSW, 2007 WL 1140639, at *2 (N.D. Cal. Apr. 17, 2007). Given Santos Enterprise’s
 6 communication with counsel via the email, service by email is proper as it will reasonably apprise
 7 Santos Enterprise of this lawsuit.

8 4. Good cause exists to extend the time to service, given the impracticability of
 9 personally serving Santos Enterprise. Federal Rule of Civil Procedure 4(m) provides that “if a
 10 plaintiff shows ‘good cause’ for the failure to serve a defendant within 90 days after the
 11 complaint is filed, ‘the court must extend the time for service for an appropriate period.’”
 12 *Signature Surgery Ctr. LLC v. Cel Servs. Grp.*, Inc., No. 2:21-cv-00215-JCM-EJY, 2022 WL
 13 1432444, at *1 (D. Nev. Apr. 5, 2022). Good cause to extend time to sever process exists
 14 “where a plaintiff has shown *diligent efforts to effect service.*” *Id.*(emphasis added)
 15 (quoting *Mitchell v. City of Henderson*, Case No. 2:13-cv-01154-APG-CWH, 2015 WL 427835,
 16 at *7 (D. Nev. Feb. 2, 2015)). Diligent efforts to effectuate service include, but are not limited to,
 17 hiring a process server to locate the defendants, searching the public records to locate the
 18 defendants, and utilizing attorneys and staff to locate the defendants. *See, e.g., Hunter v. Nat'l*
 19 *Relocation Van Lines*, No. 2:18-cv-00252-RFB-CWH, 2018 WL 3633918, at *2 (D. Nev. July
 20 31, 2018). Plaintiffs have diligently attempted to serve Santos Enterprise at all of its
 21 known addresses to no avail.

22 **Accordingly, IT IS HEREBY ORDERED** that Plaintiffs are permitted to serve
 23 Defendants process via email at mauricio@vegasvipcleaning.com. Plaintiffs will utilize the
 24 process server Nationwide Legal to effectuate service.

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1 **IT IS FURTHER ORDERED** that the time to serve the summons and complaint is
2 hereby enlarged by 60 days measured from today's date. Plaintiffs will have until
3 October 28, 2024, to effectuate service on Defendant.

4 DATED this 27th day of August, 2024.

Elayna J. Youchah
ELAYNA J. YOUCHAH